

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1041 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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BABUBHAI SURAJ PRASAD SHARMA AND ANOTHER

Versus

ABDUL SATTER MOHMAD HUSAIN SHAIKH  
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Appearance:

MS ARCHNA RAVAL for MRS KETTY A MEHTA for Petitioner  
MR SH SANJANWALA for Respondent No. 1  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/01/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the parties.
2. The plaintiff - respondent filed the Small Causes  
Suit No.299/87 in the court of Additional Small Causes

Court, Surat. In the suit, he filed an application for grant of temporary injunction which was came to be rejected by the trial court under its order dated 15.10.1987. He preferred appeal against this order which was decided by the 2nd Joint District Judge, Surat under its order dated 15.5.1991. Operative order of the appellate court is as under.:

"This appeal is allowed.

The order of the court of Additional Judge, Small Cause Court, Surat passed on 15.10.87 is the matter of Small Suit No.299/87 rejecting the application for temporary injunction is set aside and the application for temporary injunction is granted in terms of prayer which is at Exh.5 in the said Suit No.299/87 of the date 20.7.87. Of course, this, however, does not prevent the landlord from taking any action to recover the possession of the premises under due process of law from the plaintiff.

Regarding costs, same to be caused in the suit.

The record and proceedings of the case be returned to the lower court with the direction to expedite the matter at the earliest regarding which under the order dt.15.10.87 passed below Exh.5 of Exh.46 to expedite the matter, the lower court has also passed such order."

The defendants - petitioners preferred this civil revision application against this order which came up for preliminary hearing on 30.9.1991. The court ordered as under.:

"Notice returnable on 14 15 October, 1991. It will be open to the applicants to execute the decree passed in Small Cause Suit No.542/76. Direct Service Permitted."

After service of the notice, the matter was placed in the court on 14.10.1991 on which day the court ordered as under.:

"Rule - The applicants will be at liberty to execute the decree passed in Rent Civil Suit No.542/76 by Small Cause Court at Surat according

to law. It is clarified that the direction issued by the Id.Appellate Judge to expedite the hearing of the Small Cause Suit No.299/1987 is not stayed."

3. On being asked by the court to both the learned counsel for the parties, they are unable to state whether decree passed in Small Cause Suit No.542/76 is executed or not. The suit out of which this revision application has arisen is of 1987. Interest of justice would be served in case the interim relief which has been granted by this court shall continue till the decision of the suit. The trial court is directed to dispose of the suit within a period of three months from the date of the receipt of the writ of this order. Rule and Civil Revision Application stand disposed of accordingly with no order as to costs.

(S.K.Keshote,J.)

(pathan)